



**CONTAINS CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO
DISCLOSURE UNDER FOIA**

October 7, 2021

By Electronic Mail

Thomas Carroll
Acting Director
Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code: 2201A
Washington, DC 20460

Re: October Update to Response to April 24, 2020 Letter from the U.S. Environmental
Protection Agency

Dear Mr. Carroll:

Birla Carbon USA, Inc. (“Birla” or the “Company”) submits this letter as the seventeenth update to its May 22, 2020 response to the April 24, 2020 letter it received from the U.S. Environmental Protection Agency (“EPA” or the “Agency”) regarding force majeure notices the Company submitted on March 16 and 18, 2020 in anticipated noncompliance with obligations under the Consent Decree between the United States of America, the Louisiana Department of Environmental Quality (“LDEQ”), the Kansas Department of Health and Environment (“KDHE”), and Columbian Chemicals Company. Consent Decree, *United States et al. v. Columbian Chem. Co.*, No. 6:17-cv-01661-RGJ-CBW (W.D. La. June 11, 2018).

Please note that this letter and certain attachments to this letter include confidential business information (“CBI”) and are marked as such. Documents marked for CBI are entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B, and are not subject to disclosure under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. We ask that LDEQ and KDHE similarly treat this as CBI under their analogous state laws.¹

¹ Certain attachments to this letter include CBI, which Birla has designated as such with the stamp “CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO DISCLOSURE UNDER FOIA.” Based on a review of relevant LDEQ

Birla Carbon USA, Inc.

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I. North Bend

Since our last update, construction is ongoing at North Bend for installation of equipment required under the Consent Decree. Additionally, Birla's application to modify North Bend's Title V operating permit to include consent decree applicable requirements remains under review with LDEQ.

On August 28, 2021, in response to Hurricane Ida's predicted landfall near North Bend, Birla shutdown the plant and evacuated all personnel, including construction crews. North Bend was closed from the morning of August 28, 2021, through the evening of August 30, 2021. *See Confidential Attachment 1.* The project manager and associated contractors began to remobilize the construction crews on September 1, 2021, to resume project construction activity. Currently, approximately 80% of the pre-Hurricane Ida construction crews are working at North Bend due to issues in obtaining lodging. The project construction team is working through weekends to try and maintain the planned schedule.

Birla's vendor, [REDACTED], continues to estimate a two to four month delay for various components of the scrubber system. *See Confidential Attachment 1.* [REDACTED], the vendor for the reactor vent scrubber system is experiencing delays due to the lack of access to manufacturing facilities in connection with poor weather conditions and continuing COVID-19 restrictions in India. *See Confidential Attachment 1.* As of October 4, 2021, the reactor vent scrubber system arrived at the Mumbai, India port for shipment. The vendor is currently awaiting a shipping reservation on a vessel to ship the reactor vent scrubber system to the United States. *See Confidential Attachment 2.* The reactor vent scrubber system will arrive at either the New Orleans or Houston ports several weeks later; however, we note from the March 5, 2021 update, due to logistical delays at Asian and U.S. ports, Hickok's vent scrubber system took nearly three months to arrive at that facility.

In sum, Birla is continuously assessing the impact on the construction schedule due to the effects of Hurricane Ida resulting in North Bend's temporary shutdown, evacuation of personnel, and demobilization and remobilization of project construction crews, as well as the continuing effects of the COVID-19 pandemic. At this time, the projected target completion date for the SCR and absorber is still projected to be completed by December 31, 2021, with continuous operations projected at January 31, 2022. *See Attachment 1.* In regards to the reactor vent scrubber system, with the expedited shipment of the reactor vent scrubber system from Mumbai, India, the date of installation is currently estimated to be March 16, 2022, and the system to be commissioned and in continuous operation by April 16, 2022. *See Confidential Attachment 1.* However, this date remains fluid until all equipment deliveries can be confirmed. *See Confidential Attachment 1.* The final commission of the SCR and seawater scrubber system is anticipated to take place sometime in January 2022 with the Continuous Emissions Monitoring System ("CEMS") being certified around January 31, 2022, however the reactor vent scrubber will be at the later date provided above.

regulations, La. Admin. Code tit. 33, pt. I, § 501(A), Birla understands that it must submit any CBI via mail or delivery to LDEQ and not electronically. At this time, Birla is providing the entire submittal to EPA and KDHE, and will separately submit the letter and its attachments to LDEQ.

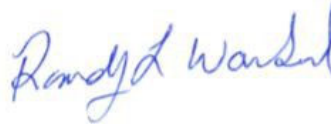
II. Hickok

Hickok is in continuous operations under the Consent Decree and is meeting its Consent Decree obligations as of June 12, 2021.

Immediately prior to and since beginning Continuous Operations on June 12, 2021, the site has experienced ongoing operational issues with the main stack CEMS unit including, but not limited to plugged sampling lines and equipment, failed oxygen sensors, and excess moisture. To that point, on August 17, 2021, Birla notified EPA and KDHE of a serious issue with the CEMS analyzers which required the physical analyzer to be sent back to the manufacturer for repairs resulting in a Force Majeure notification. The system was reinstalled and made operational on August 23, 2021. The site has continued to have operational issues since the unit was returned from the vendor due to plugging of the sampling system and continues to work with the vendor and the EPC to resolve these issues.

We will update you with more details as they become available. Please contact David Buente at 202-255-8684 or dbuente@sidley.com if you have any questions in the meantime.

Sincerely,



Randy Waskul
Global Director, Health, Safety & Environmental

CC: Kellie Ortega, U.S. EPA (by email)
Patrick Foley, U.S. EPA (by email)
Chris Williams, U.S. EPA (by email)
Carlos Evans, U.S. EPA Region 6 (by email)
Emad Shahin, U.S. EPA Region 6 (by email)
Lisa Gotto, U.S. EPA Region 7 (by email)
Lisa Hanlon, U.S. EPA Region 7 (by email)
Amy Algoe-Eakin, U.S. EPA Region 7 (by email)
Alex Chen, U.S. EPA Region 7 (by email)
Thomas Mariani, U.S. DOJ (by email)
Eli Quinn, U.S. DOJ (by email)
Connie Ellis, KDHE (by email)
Kate Gleeson, KDHE (by email)
Deidre Johnson, LDEQ (by FedEx)

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David Buente, Sidley Austin LLP (by email)
Peter Whitfield, Sidley Austin LLP (by email)

Enclosures: Confidential Attachment 1 - 2021 - 10 - 04 - North Bend - Letter from Engineer of
Record

Confidential Attachment 2 - 2021 - 10 - 04 - North Bend - Email Correspondence from
Reactor Vent Scrubber Vendor

CONFIDENTIAL ATTACHMENT 1

2021-10-04 - North Bend -
Letter from Engineer of Record

Attn: Mark B. Vannice, PE, Project Director
Birla Carbon USA, Inc.
Regional Office Marietta
1800 West Oak Commons Ct
Marietta, GA 30062

Letter: BC-018

Re: Purchase Order No. 2300002188; Notice of Force Majeure Event Update – Status as of October 4th, 2021

Dear Mr. Vannice:

Reference is made the above Purchase Order and the Professional Services Terms and Conditions (Agreement) and Letters BC-001 dated May 13th, 2020 and BC-002 dated June 17th, 2020. Terms not otherwise defined herein shall have the meaning assigned to them in the Agreement.

In accordance with Article 12(a) of the Agreement Engineer is providing Owner an update to the Force Majeure Event notice of May 13th, 2020. The Force Majeure Event is primarily the domino effect of uncontrolled delays and disruption of the global supply chain the Owner is experiencing from its Vendors supplying material and equipment to the Facility project; and secondarily the potential delay caused by disruptions in the available services to, and mobility of, Engineers' staff. The delays and disruptions to the supply chain as we are informed by notices from the Vendors to you are caused by impacts of the COVID-19 epidemic on the manufacture of materials and equipment. These delays are outside the control and without the fault of Engineer. To the extent these delays experienced by the Vendors affects the timely delivery of our Work that depends on inputs of information and ultimately delivery to the Facility in accordance with the Schedule, we are, or likely will be, seeking extensions on the Schedule for a time reasonably necessary to overcome the effect of the delay and additional compensation as appropriate. We are to the extent possible undertaking reasonable measures to make up for time lost caused by the delay and assisting Owner, to the extent possible, mitigating Vendor impacts.

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Mr. Mark Vannice
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As of October 4th , we are informed by Owner's Vendor [REDACTED] that they are incurring delays of anywhere from two (2) to four (4) months for various components of the AQCS due to the lack of access to manufacturing facilities in connection with the restrictions related to the COVID-19 virus. Additionally, the absorber manufacturer contracted by [REDACTED], [REDACTED], has issued [REDACTED] a Force Majeure claim as of March 2nd, claiming a two week delay due to the extreme cold weather event in February and Covid impacts. Delays in delivery of [REDACTED] equipment have directly affected the project schedule. Currently we are still awaiting the BMS panels and miscellaneous instruments which are directly impacting progress.

In addition, Owner's Vendor [REDACTED] delayed their hydrotest dates until January 18th and 29th, 2021, causing a delay of the delivery of the HRSR until March 3rd. This was over two months past the original delivery date.

A new priming system skid has been sourced after the original vendor backed out of their contract due to the death of the company Principal and Covid 19 impacts. The new vendor, [REDACTED], delivered the skid in August of 2021, an approximate slip of more than four months over the original delivery date of April 1st.

Additionally, the entire North Bend plant was evacuated the week of August 24th, 2020 due to two named storms, Hurricane Laura and Tropical Storm Marco.

Also, the entire North Bend facility was evacuated again October 8th – 11th, 2020 for Hurricane Delta. This evacuation had initially delayed the piling contractor Patriot Construction and they had issued a Force Majeure notice for this event. The piling is now complete, and this has been incorporated into the current schedule.

Another extreme weather event that impacted the project was the record cold in February 2021. The site was closed Feb 15th – 17th due to local roads being closed restricting access to the site. Additionally, we did close the site a few days in April due to lightning, but contractors worked Saturdays to mitigate.

On August 27th, 2021, the site began preparing for Hurricane Ida. The site was evacuated August 28th through the 30th. The trade contractors were not able to restaff the job fully immediately due to large portions of their staff having been directly impacted by the hurricane and that were not able to return immediately after the storm. Additionally, the reduced availability and higher prices for fuel and accommodations in the area affected the availability of craft labor.

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[REDACTED]

These potential delays by the Vendors and the weather-related evacuations and closures of the site translates to a corresponding delay affecting the Engineer's Schedule that is also outside the control and without fault of Engineer. Engineer is taking every effort to overcome or mitigate the potential delays and will keep you informed as further information becomes available, so that we can work together cooperatively to address any problems that may arise on your Facility project.

The AQCS project schedule was significantly impacted by Hurricane Ida. Ida had and continues to have a significant effect on the availability of manpower. The impact from Ida has delayed the project by 4 weeks. The schedule continues to be reviewed with Birla Carbon to determine the full impact. The execution of the outages has been rearranged to mitigate the lost time due to Ida. Currently the continuous operation date is January 31st, 2022.

The vent scrubber project is experiencing delays due to late equipment deliveries. The scrubbers provided by [REDACTED] are being impacted the Covid 19 pandemic in India. The Scrubbers are currently at port in India waiting for a container assignment. The current estimated Vent Scrubber completion date is April 15th, 2021. However, this date is still fluid until as all equipment deliveries can be confirmed.

We continue to monitor the situation and will keep the Owner apprised of additional delays or improvements as they are discovered.

Please feel free to contact me at [REDACTED] or [REDACTED] if you have any questions.

Sincerely,

[REDACTED]

cc: Randy Waskul, Birla
[REDACTED]

CONFIDENTIAL ATTACHMENT 2

2021-10-04 - North Bend -
Email Correspondence from Reactor Vent Scrubber
Vendor

Braddock, Allen S.

From: Waskul, Randy <Randy.Waskul@adityabirla.com>
Sent: Monday, October 4, 2021 5:41 AM
To: Braddock, Allen S.
Subject: Birla North Bend Vent Scrubber DRAFT INVOICE

Follow Up Flag: Follow up
Flag Status: Flagged

Allen,

The current status of the reactor vent scrubber coming from India for North Bend.

With Kindest Regards,

Randy

Randy Waskul

Global Director Health, Safety and Environment



Birla Carbon

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E: randy.waskul@adityabirla.com

Birla Carbon – USA, 1800 West Oak Commons Court, Marietta, Georgia 30062



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From: [REDACTED]
Sent: Monday, October 4, 2021 6:27 AM
To: Yeomans, Geoffrey <Geoffrey.Yeomans@adityabirla.com>
Cc: Reasoner, Michael <Michael.Reasoner@adityabirla.com>; [REDACTED] [REDACTED]

[REDACTED] Waskul, Randy <Randy.Waskul@adityabirla.com>; Leonard, Mark <Mark.Leonard@adityabirla.com>; Romero, Wayne <Wayne.Romero@adityabirla.com>; Vannice, Mark <Mark.Vannice@adityabirla.com>; Smith, Tom <Tom.Smith@adityabirla.com>; [REDACTED]
[REDACTED]

Subject: RE: [SPAM] RE: RE: RE: Re: Birla North Bend Vent Scrubber DRAFT INVOICE

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Sir,

Cargo has been delivered to Port today i.e. on 4th October 2021.

Our Agent will take up Customs clearance activities.

Meantime still awaiting container booking from [REDACTED].

Regards,
[REDACTED]

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